

1 AN ACT relating to the provision of broadband services, and making an
2 appropriation therefor.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
5 READ AS FOLLOWS:

6 *(1) The General Assembly recognizes and declares:*

7 *(a) The provision of broadband service to residential, commercial, and*
8 *industrial customers is critical to securing a sound economy and promoting*
9 *the general welfare of the Commonwealth; and*

10 *(b) Distribution cooperatives are able to access and leverage federal funding to*
11 *extend and enhance the availability of broadband service to Kentucky*
12 *residents who are currently unserved or underserved.*

13 *(2) As used in this section:*

14 *(a) "Broadband" means any wireline or fixed terrestrial technology having a*
15 *capacity to transmit data from or to the Internet with a minimum speed of*
16 *twenty-five (25) megabits per second downstream and three (3) megabits per*
17 *second upstream as defined by the Federal Communications Commission*
18 *or the United States Department of Agriculture and any amendments to*
19 *those definitions. If the agencies use different speed definitions, the faster*
20 *speed definition shall apply;*

21 *(b) "Underserved area" means any project area where fixed, terrestrial*
22 *broadband service with a minimum twenty-five (25) megabits per second*
23 *downstream and three (3) megabits per second upstream is not available;*
24 *and*

25 *(c) "Unserved area" means any project area where fixed, terrestrial broadband*
26 *service with a minimum ten (10) megabits per second downstream and one*
27 *(1) megabit per second upstream is not available.*

1 (3) Notwithstanding any other statute to the contrary, a distribution cooperative may
2 facilitate the operation of an affiliate engaged exclusively in the provision of
3 broadband service to unserved or underserved households and businesses by:

4 (a) Leasing excess capacity on any fiber optic cable used to support the
5 distribution cooperative's distribution system;

6 (b) Issuing securities or evidences of indebtedness in an amount not to exceed
7 twenty-five percent (25%) of the net book value of its assets, the proceeds of
8 which shall be used for the exclusive purpose of capitalizing the affiliate; or

9 (c) Pledging up to twenty-five percent (25%) of the net book value of its assets
10 as collateral for a loan entered into by the affiliate for the purpose of
11 providing broadband services.

12 (4) The commission shall take into consideration the policy of encouraging the
13 provision of broadband service to unserved or underserved households and
14 businesses throughout the Commonwealth when determining whether:

15 (a) The proposed investment will result in wasteful duplication of investment in
16 the case of any distribution cooperative's application for a certificate of
17 public convenience and necessity under KRS 278.020 that includes the
18 construction of a fiber optic cable system with capacity in excess of that
19 which is necessary to support the distribution cooperative's system under
20 subsection (3)(a) of this section; and

21 (b) The issuance or assumption of securities or evidence of indebtedness
22 satisfies the criteria of KRS 278.300(3) in the case of any distribution
23 cooperative's application for approval of an issuance of securities or
24 evidence of indebtedness or pledge of assets under subsection (3)(b) and (c)
25 of this section.

26 (5) A distribution cooperative shall comply with the cost allocation requirements of:

27 (a) KRS 278.2201, 278.2203, 278.2205, 278.2207, 278.2209, and 278.2211; and

1 **(b) Only KRS 278.2213(1) and (3) with regard to any costs associated with its**
2 **facilitation of an affiliate's provision of broadband services.**

3 **(6) A distribution cooperative shall not provide broadband service to an unserved or**
4 **underserved household or business currently served by a network owned by a**
5 **local or state government or a network owned by a rural telephone cooperative**
6 **corporation incorporated under KRS Chapter 279, unless authorized to do so by**
7 **the government or rural telephone cooperative corporation.**

8 ➔Section 2. (1) There is hereby appropriated General Fund moneys in the
9 amount of \$250,000,000 in fiscal year 2021-2022 to the broadband deployment fund
10 which shall be distributed to the fund as follows:

11 (a) \$30,000,000 during the second quarter of fiscal year 2021-2022;

12 (b) \$70,000,000 during the third quarter of fiscal year 2021-2022; and

13 (c) \$150,000,000 during the fourth quarter of fiscal year 2021-2022.

14 (2) The moneys appropriated for the third and fourth quarters of fiscal year 2021-
15 2022 shall not be distributed until all moneys appropriated for the previous quarter are
16 awarded.

17 (3) The agency administering the broadband deployment fund shall promulgate
18 administrative regulations to ensure that:

19 (a) The moneys are awarded based on the following criteria in the order as listed:

20 1. Projects in underserved or unserved census blocks;

21 2. Projects in areas that are not currently receiving federal broadband funds; and

22 3. Projects that reach the customers that are the least economical to serve;

23 (b) A request for proposal shall be issued for projects;

24 (c) Projects will require a private match of not less than 50 percent of the total
25 project cost; and

26 (d) Project scope should be for the smallest feasible geographical area.

27 (4) The agency may provide incentive for timely completion and disincentive for

- 1 not meeting agreed upon timeframes.